

Landers Laminates, Inc. and Amalgamated Industrial Union, Local 76B, IUE, AFL-CIO. Case 22-CA-17541

February 28, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND OVIATT

Upon a charge filed by Amalgamated Industrial Union, Local 76B, IUE, AFL-CIO, on February 25, 1991, the General Counsel of the National Labor Relations Board issued a complaint on September 30 against Landers Laminates, Inc., the Respondent, alleging that it violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent has failed to file an answer.

On December 9, 1991, the General Counsel filed a Motion for Summary Judgment. On December 18, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from the service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all of the allegations in the complaint shall be deemed to be admitted true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that counsel for the General Counsel, by letter dated October 18, 1991, and by telephone and followup letter confirming the conversation dated November 8, respectively notified the Respondent that unless an answer was received by October 25 and then by November 15, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation, has been engaged in the manufacture, sale, and distribution of formica countertops and related products. From its first day of business on an unknown date in October, November, or December 1990, to the September 30, 1991 issuance of the complaint, the Respondent, in the course and conduct of its operations, has sold and shipped from its Belleville, New Jersey facility products, goods, and materials valued in excess of \$50,000 to customers located within the State of New Jersey, including Merit Kitchen Distributors, Inc., which has been engaged in the nonretail sale and distribution of kitchen cabinets, appliances, and related products. During the 12 months preceding the issuance of the complaint, Merit Kitchen Distributors, Inc., has sold and shipped from its Totowa, New Jersey facility products, goods, and materials valued in excess of \$50,000 to points outside the State of New Jersey and is an employer directly engaged in interstate commerce. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that Amalgamated Industrial Union, Local 76B, IUE, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

On an unknown date in October, November, or December 1990, the Respondent purchased the business of Merit Countertops, Inc. (Merit). Since that date, the Respondent has continued to operate the business of Merit in basically unchanged form and has, as a majority of its employees, individuals who were previously employees of Merit. By virtue of the operations described above, the Respondent has continued the employing entity and is a successor of Merit.

The following employees of the Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production and maintenance employees employed by the Respondent at its Belleville, New Jersey facility but excluding all office clerical employees, salesmen, guards and supervisors as defined in the Act.

On June 22, 1981, Amalgamated Industrial Union, Local 76B, IUE, AFL-CIO (Local 76B) was certified as the exclusive collective-bargaining representative of the unit employees employed by

Merit. Since that date to about October 30, 1990, Local 76B, by virtue of Section 9(a) of the Act, was the exclusive representative of Merit's employees in that unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment. At all times since the Respondent purchased the business of Merit and commenced its business operations, Local 76B, by virtue of Section 9(a) of the Act, has been, and is, the exclusive representative of the Respondent's employees in the unit described above for the purposes of collective bargaining.

Since on or about October 30, 1990, and at all times material, the Respondent has failed and refused to recognize and bargain with Local 76B as the exclusive collective-bargaining representative of the unit employees despite Local 76B's requests to the Respondent about October 30, 1990, on an unknown date in November 1990, and on December 12, 1990, to recognize it as the exclusive collective-bargaining representative of the employees in the unit and to bargain collectively with it as the exclusive representative of the employees. By the above conduct, the Respondent has failed and refused, and is failing and refusing, to bargain collectively and in good faith with the representative of its employees, Local 76B, in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSIONS OF LAW

By failing and refusing to recognize and bargain with Local 76B as the exclusive collective-bargaining representative of the unit employees, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. We shall order that the Respondent recognize and, on request, bargain with the Union as the exclusive collective-bargaining representative of the unit.

ORDER

The National Labor Relations Board orders that the Respondent, Landers Laminates, Inc., Belleville, New Jersey, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to recognize and bargain collectively and in good faith with Amalgamated Industrial

Union, Local 76B, IUE, AFL-CIO as the exclusive collective-bargaining representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Recognize and, on request, bargain collectively and in good faith with Amalgamated Industrial Union, Local 76B, IUE, AFL-CIO, as the exclusive representative of the employees in the following appropriate unit and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time production and maintenance employees employed by the Respondent at its Belleville, New Jersey facility but excluding all office clerical employees, salesmen, guards and supervisors as defined in the Act.

(b) Post at its facility in Belleville, New Jersey, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 22, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail and refuse to recognize and bargain collectively and in good faith with Amal-

gamated Industrial Union, Local 76B, IUE, AFL-CIO, as the exclusive collective-bargaining representative of our employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL recognize and, on request, bargain collectively and in good faith with Amalgamated Industrial Union, Local 76B, IUE, AFL-CIO, as the exclusive representative of our employees in the

following appropriate unit and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time production and maintenance employees employed by us at our Belleville, New Jersey facility but excluding all office clerical employees, salesmen, guards, and supervisors as defined in the Act.

LANDERS LAMINATES, INC.